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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 1388

JAMES A. MESSICK, t/d/b/a
GEORGIAN HALL MOTOR LODGE,
RELIANCE COMPANIES, and
PENNSYLVANIA NATIONAL
INSURANCE GROUP

Petitioners,

vs.

WILLIAM J. GORDAN

Respondent.

REPLY BRIEF OF PETITIONERS

JAMES M. PICKRELL
GEORGE F. DOUGLAS, JR.
JOSEPH J. LAWLER
Attorneys for Petitioners

KELLAM, PICKRELL, LAWLER, HODGES & KELLAM
1020 First & Merchants National Bank Bldg.
Norfolk Virginia, 23510

PRINTED BY TEAGLE & LITTLE, INC., NORFOLK, VA.

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To The Honorable, The Chief Justice And
Associate Justices of the Supreme
Court of the United States.

JURISDICTION

The Respondent's Brief raises the fact that the Petitioners' 40 copies of the Petition For A Writ of Certiorari To The United States Court of Appeals For the Fourth Circuit arrived in the Office of the Clerk, Supreme Court of the United States on the ninety-first (91) day following the Opinion and Judgment of the Fourth

Circuit Court. The Fourth Circuit Court entered their Opinion and Judgment on November 25, 1970, and the aforesaid 40 copies arrived in the said Clerk's Office on February 24, 1971.

On February 15, 1971, George F. Douglas, Jr., Esquire, one of the attorneys for the Petitioners wrote to the Clerk, Supreme Court of the United States advising him of the filing of the Petition For a Writ of Certiorari; advising him of the requests sent to the Honorable Samuel W. Phillips, Clerk of the United States Court of Appeals for the Fourth Circuit and the Honorable W. Farley Powers, Jr., Clerk of the United States District Court, Norfolk, Virginia, to forward the record; advising that the printing company of Teagle & Little, Inc., Norfolk, Virginia, would send the required 40 copies of the Petition For a Writ of Certiorari directly to the Clerk, Supreme Court of the United States; advising by affidavit the service of notice of intention to file the said petition on Harry E. McCoy, Esquire, of Seawell, McCoy, Winston, and Dalton, attorneys for the Respondent; and enclosing payment of the $100 filing fee.

The printing company of Teagle & Little, Inc., Norfolk, Virginia, advised Joseph J. Lawler, Esquire, of Kellam, Pickrell, Lawler, Hodges & Kellam, one of the attorneys for the Petitioners, that the said 40 copies would be mailed to the Clerk, Supreme Court of the United States, on or before February 20, 1971.

On February 19, 1971, the said Teagle & Little, Inc., mailed the said 40 copies. Unfortunately, the package was addressed by them to the Supreme Court of Appeals of Virginia, Richmond, Va.

On February 22, 1971, the Honorable Samuel W. Phillips, Clerk, United States Court of Appeals, Rich-

mond, Virginia, sent the original record to the Clerk, Supreme Court of the United States.

On February 22, 1971, the said Joseph J. Lawler, Esquire, served the required five copies of the said Petition on the said Harry E. McCoy, Esquire. An affidavit to this effect has been filed.

On February 22, 1971, the Honorable Howard G. Turner, Clerk of the Supreme Court of Appeals of Virginia, telephoned the said Joseph J. Lawler, Esquire, to say that the said 40 copies had arrived in Mr. Turner's office. It was agreed by these two men that the Honorable Howard G. Turner would immediately forward the said 40 copies to the Clerk, Supreme Court of the United States, which he did. However, the said 40 copies did not arrive in the Office of the Clerk, Supreme Court of the United States, until February 24, 1971.

WHEREFORE, due to the unfortunate mistake of the said Printers, it is requested that the fact that the said 40 copies arrived one day late be waived, and the said petition be decided on the merits.

Respectfully submitted,

JAMES M. PICKRELL,
GEORGE F. DOUGLAS, JR.
JOSEPH J. LAWLER
Attorneys for Petitioners

KELLAM, PICKRELL, LAWLER, HODGES & KELLAM
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Norfolk Virginia, 23510
Attorneys for Petitioners